

INTERNAL PROCEDURES FOR CASES ASSIGNED TO THE HONORABLE RUSSELL A. EISENBERG

1. These internal procedures are current as of August 1, 1999, and apply ONLY to cases assigned to the Honorable Russell A. Eisenberg. They are NOT local rules. Their sole purpose is to offer general guidance in proceeding with matters pending before Judge Eisenberg.
2. Motions
 - A. Hearing dates are NOT given before a motion is filed. Simply file your motion and notice of motion without including a hearing date, and someone from chambers will contact you either in writing or by telephone with a hearing date and time.
 - B. Expedited, emergency hearings without first filing a motion are handled on a case-specific basis. Prior to requesting an expedited hearing from the court, all interested parties must be contacted to discuss the scheduling of such a hearing. Objections to emergency motions which are heard on an expedited basis may be made orally on the record at the hearing.
 - C. In Chapter 7 and Chapter 13 cases, motions for relief from the automatic stay are generally brought on a 15 day “notice and opportunity for a hearing.” If no objection is served and filed within 15 days, the movant must then file an affidavit of no objection and a proposed order.
3. Hearings

- A. A hearing is needed:
1. For a motion to reopen a case;
 2. For a motion to dismiss a Chapter 7 case;
 3. For a motion to dismiss a Chapter 11 case;
 4. For a motion to dismiss a Chapter 13 case if there has been a prior conversion;
 5. For a motion to convert a Chapter 7 case to a Chapter 13 case if there has been a prior conversion;
- B. Personal appearances are generally required for ALL contested hearings. A party may not appear by telephone for any hearing (contested or uncontested) without prior approval of the court. The individual who receives permission to appear by phone must immediately inform all other interested parties of such permission so that they then also have the same opportunity to appear by phone. A movant may include in the notice of motion that if no objection is timely served and filed, the movant may appear by telephone.
- C. When requesting an adjournment, the party seeking the adjournment must set up a conference call with all other interested parties and the court. A letter request is only sufficient if the writer certifies that all interested parties have consented to the adjournment and have agreed upon the proposed new dates.
- D. Absent prior court permission, all documents relating to a hearing must be filed no later than three days prior to the hearing.

- E. The first hearing on a motion for relief from the automatic stay is generally a preliminary hearing. As a result, no appraisers are necessary. A detailed, financial worksheet is strongly recommended, however. A suggested worksheet is provided at the conclusion of these internal procedures. With the consent of the parties, the court may deem a preliminary hearing to be the final hearing.
- F. The court will NOT make findings of fact on the record in open court unless testimony is taken at a hearing.

4. Documents

- A. Absent prior court permission, motions and objections must be in writing and must state the legal and factual bases for the motion or the objection with specificity.
- B. Filing by facsimile is allowed ONLY in emergency situations with PRIOR permission of the court. The original and a copy must be filed either by mail or in person as soon as possible thereafter.
- C. All documents filed within one calendar week of a related hearing and all documents relating to an emergency matter must be stamped "RUSH."
- D. Two courtesy copies of all documents filed within one calendar week of a related hearing and of all documents relating to an emergency matter must be delivered to chambers immediately upon the filing of such documents. Such delivery may be made in person or through the mail in an envelope addressed to the court and marked "Personal and Confidential."

- E. In order to have a conformed copy of an order returned to you, an extra copy and a self-addressed, stamped envelope must be submitted.
 - F. The court will NOT sign an order containing findings of fact unless testimony was taken at a hearing.
 - G. Each proposed order must be submitted as a separate document rather than a combined document such as a “Stipulation and Order.”
 - H. Each objection to a claim must be submitted as a separate document rather than a combined document listing numerous claim numbers.
5. Financing orders and cash collateral agreements
- A. The court generally does not allow:
 - 1. A secured creditor to pick-up a category of assets post-petition on which it did not have a pre-petition security interest unless new credit or funds are advanced;
 - 2. Super-priority positions unless a significant carve-out is proposed;
 - 3. A secured creditor to obtain a higher priority than Chapter 11 expenses of administration or Chapter 7 expenses of administration in the event of a conversion from Chapter 11;
 - 4. Pre-petition or post-petition cross-collateralization unless new credit or funds are advanced;
 - 5. Automatic perfection of security interests in “replacement lien collateral” without filing or re-filing UCC statements; or
 - 6. A secured creditor to pick-up a security interest in preference or

fraudulent conveyance recoveries.

B. The court will closely scrutinize the following:

1. Whether all post-petition expenses such as taxes, wages, benefits, union obligations, and utilities are current;
2. Whether a carve-out will be necessary;
3. What constitutes an event of default; and
4. Whether owner and employee benefits are on an equal footing.

6. In accordance with Federal Rule of Bankruptcy Procedure 9014(e), all HEARINGS scheduled before the Honorable Russell A. Eisenberg will be evidentiary hearings at which witnesses may testify. All PRELIMINARY HEARINGS, PRE-HEARING CONFERENCES, PRE-TRIAL CONFERENCES, and STATUS CONFERENCES will not be evidentiary hearings at which witnesses may testify.

7. **AFTER BUSINESS HOURS** - Only When the Bankruptcy Clerk's Office is Not Open

A box located inside the Jackson Street entrance can be used to file documents.

You may file stamp and retain your copies. Put the original and required court copies in an envelope and seal it. Deposit the envelope in the box.

Please contact Joan McFadyen at 414-297-3291, extension 3060, if you have comments, questions or suggestions.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

In Re:

Case No.

Debtor(s)

MOTION FOR RELIEF HEARING WORKSHEET

Hearing Date:

Movant:

Property Address:

Debtor's Attorney:

Petition Filed:

Current monthly payment:	\$
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Current monthly late charge:	
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Total:	<hr/>
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\$

Post-petition arrearage (including legal expenses) for the months of:	\$
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Add: Monthly payments and late charges coming due after the motion filed:	\$
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Less: Payments received from debtor after the motion filed:	\$
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Received on _____ applied to _____

Post-petition arrearage on hearing date:	\$
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Property value per tax bill:	\$
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Less: Principal balance:	\$
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Accrued interest:	\$
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Escrow deficit:	\$
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Estimated legal expenses:	\$
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Debtor's equity in property:	\$
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\$ *

* Subject to any other outstanding mortgages and unpaid real estate taxes

Drafted by:

We are required to state that we are attempting to collect a debt on our clients's behalf and any information we obtain may be used for that purpose.